IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

CRP.No. 2541 of 1999(A)

AGAINST THE ORDER DATED 18/09/1999 IN IA 10/1994 IN TLB.(SR)101/1973 of TALUK LAND BOARD, CHAVAKKAD,KODUNGALLOOR

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REVN. PETITIONER:

PATTATHIL IBRAHIM,
S/O.MOIDUNNY, KADAPPURAM AMSOM, DESOM,
CHAVAKKAD TALUK, TRICHUR DISTRICT.

BY ADV. SRI.A.P.CHANDRASEKHARAN
SMT.PRABHA R.MENON
SRI.PUSHPARAJAN KODOTH
SRI.M.KRISHNAKUMAR(MOHANKUMAR ASSOCIATES
SRI.K.JAYESH MOHANKUMAR

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, SECRETARIAT,THIRUVANANTHAPURAM.

2. THE TALUK LAND BOARD, CHAVAKKAD, KODUNGALLUR, TRICHUR.

3. THE TAHSILDAR, CHAVAKKAD.

4. THE VILLAGE OFFICER, KADAPPURAM, CHAVAKKAD.

BY GOVERNMENT PLEADER SRI SHYSON P. MANGUZHA

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 21/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CMP.NO.5232/99 IN CRP.NO.2541/99

Dismissed

21/2/2007 Sd/- P.R.RAMAN,JUDGE.

P.R.RAMAN,J.

C.R.P.NO.2541 OF 1999

Dated this the 21st day of February, 2007

O R D E R

Petitioner impugnes the order dated 18/9/1999 in IA.No.10/94 in TLB (SR) 101/73 on the file of the Taluk Land Board, Kodungallur, Chavakkad Camp by which the claim for exclusion of an extent of 84 1/4 cents of land in Sy.No.86 of Kadappuram Village, Chavakkad Taluk belongs to the petitioner and three others, was dismissed. In a ceiling proceedings of Sathar Plantations the claim for exclusion was originally made by Lalithambal, widow of C.H.Govindan, in respect of the very same land, inter alia contending that the property belonged to her husband. In support of thereof Patta No.10649/77 dated 5th July, 1977 issued by the Land Tribunal, Chavakkad was produced as seen

from the records. The said purchase certificate shows that the same was issued under Section 72 of the Kerala Land Reforms Act upholding the tenancy claim of one C.H.Govindan, Ernakulam. Subsequently, Govindan died and the claim was preferred by his wife, Lalithambal. During the pendency of the proceedings the said property was sold by her in favour of Moidunnykutty as per registered sale deed dated 2/5/1987. Subsequently, the said Moidunnykutty assigned the property in favour of the petitioner and three others as per registered sale deed dated 23/2/1988. Certified copies of these documents were produced, as seen from the records of this case. Petitioner herein along with three others sought to implead themselves in the proceedings and they also filed separate claim petitions inter alia seeking to exclude certain lands, as they are successors-in-

interest of Lalithambal. The Land Board, as per the present order, rejected the claim of Lalithambal on the sole ground that she has failed to adduce documentary evidence, though reference was made to Patta No.10649/77 issued by the Land Tribunal, Chavakkad.

2. It is contended by the learned counsel that Patta is a document of title to the property, as it was issued by the competent Land Tribunal in accordance with the statutory provisions contained in the Kerala Land Reforms Act which confers fixity of tenure only in respect of tenancy prior to 1/4/1964 and as such a further proof regarding possession is unnecessary and uncalled for. At any rate, when there is a certificate of purchase produced showing that Lalithambal has become the absolute owner of the property and hence the said property cannot be included in the ceiling case of Sathar Plantations.

3. Heard both sides.

4. As already observed while stating the facts that the certificate of purchase issued in favour of Govindan was produced by the parties, which is seen issued by the Competent Tribunal under the provisions of the Kerala Land Reforms Act. In the absence of any contention of fraud or collusion, the said certificate is binding on the Land Board. The Kerala Land Reforms Act confers fixity of tenure under Section 13 of the said Act on the cultivating tenants prior to 1/4/1964. Lalithambal was a legally wedded wife of Govindan, who for and on behalf of the minor children executed a document assigning the property in favour of Moidunnykutty, who in turn assigned the property in favour of the petitioner and three others. Therefore, the documentary evidence produced in the case is clinching on the issue that the declarant is

not in the possession of 84 1/4 cents of land in Sy.No.86 in Kadappuram Village. The Land Board in such circumstances ought to have excluded this land from the account of the declarant. Hence, the order of the land Board is set aside.

5. In the circumstances, the matter is remanded to the Taluk Land Board for fresh consideration. The Taluk Land Board shall pass appropriate orders excluding this land from the declarant's account.

C.R.P. is allowed as above.

P.R.RAMAN,
Judge.

KCV.

s

P.R.RAMAN, J.

C.R.P.NO.2541 OF 1999

O R D E R

21st February, 2007